IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

CRP.No. 991 of 2005()

AGAINST THE ORDER DATED 25/08/2005 IN IA. 2260 /2005 IN OPELE.58/1989 of ADDL.DISTRICT COURT, THRISSUR

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REVN. PETITIONER/RESPONDENTS IN E.O.P:

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1. KERALA STATE ELECTRICITY BOARD,
   REP. BY THE SECRETARY, K.S.E. BOARD,
   TRIVANDRUM.

2. SPECIAL TAHSILDAR (LA),
   K.S.E.BOARD, ERNAKULAM.

BY ADV. SRI.P.SANTHALINGAM, SC, KSEB

RESPONDENTS/PETITIONERS IN E.O.P:

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1. ABRAHAM ISAAC, AGED 40,
   ANIKKADU HOUSE, VELLIKULANGARA KARA,
   VELLIKULANGARA VILLAGE.

2. SARAMMA ISAAC, AGED 38,
   ANIKKADU HOUSE, VELLIKULANGARA KARA,
   VELLIKULANGARA VILLAGE.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No. 991 OF 2005 G

Dated this the 3rd August, 2007.

O R D E R

This revision is preferred against the order of the District Judge, Thrissur in I.A.2260/05 in E.O.P.58/89. It was an application filed for the issuance of a commission under Order XXVI Rule 9 CPC. The court below rejected the application holding that there was no case for the Electricity Board regarding the difference in the extent of property injuriously affected as noted by the Village Officer. At the outset it has to be stated that there is already a commissioner's plan and report and without resorting to legal remedies to set aside the commissioner's plan and report or filing an application for remitting the same the petitioner cannot file a fresh application for issuance of a new commission. Even apart from that if the Board is having documents to prove the extent so injuriously affected it can produce the same and try to prove it through its officer. When the court is convinced about the same and it is in difference with the Village Officer's report the court can consider the question of remitting back the commissioner's plan and report to find out the exact extent that is injuriously affected. As observed by the court below at this stage no materials are

available to hold otherwise. Therefore with the observations mentioned above, the C.R.P is disposed of.

M.N.KRISHNAN
Judge

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